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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/005,318 01/09/98 HEIN

M 310098401C1

000500 HM12/0409  
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EXAMINER

ROMEO, D

ART UNIT

PAPER NUMBER

1647

DATE MAILED:

*19*  
04/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/005,318

Applicant(s)

Hein et al.

Examiner

David Romeo

Group Art Unit

1647



☒ Responsive to communication(s) filed on 23 Jan 2001

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-28, 30, 31, and 36-41 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-28, 30, 31, and 36-41 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### DETAILED ACTION

1. The amendment filed 01/23/01 has been entered. Applicants will receive a response to their arguments after responding to the election/restriction requirement below.

#### *Election/Restriction*

- 5 2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-28, 30, 31, 36-41, to the extent that they are drawn to a targeting molecule linked to a biological agent wherein said targeting molecule is further linked to an indeterminate peptide that directs delivery of the biological agent to a carcinoma cell, classified in class 530, subclass indeterminate.
- 10 II. Claims 1-28, 30, 31, 36-41, to the extent that they are drawn to a targeting molecule linked to a biological agent wherein said targeting molecule is further linked to an indeterminate peptide that directs delivery of the biological agent to a nucleus, classified in class 530, subclass indeterminate.
- 15 III. Claims 1-28, 30, 31, 36-41, to the extent that they are drawn to a targeting molecule linked to a biological agent wherein said targeting molecule is further linked to an indeterminate peptide that directs delivery of the biological agent to an endoplasmic reticulum, classified in class 530, subclass indeterminate.
3. The inventions are distinct, each from the other because of the following reasons:

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a. The following pairwise combinations of products are independent and distinct, wherein neither member of a pair is required for the production or use of the other, and wherein each of the pair can be manufactured independently of the other and used for independent and distinct purposes: I and each of II, III; II and each of III.

5 4. Because these inventions are distinct for the reasons given above and potentially have acquired a separate status in the art as shown by their potential different classification, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and the searches required are not coextensive, restriction for examination purposes as indicated is proper.

10 6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37  
15 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

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amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


5 ANY INQUIRY CONCERNING THIS COMMUNICATION OR EARLIER COMMUNICATIONS FROM THE EXAMINER SHOULD BE DIRECTED TO DAVID S. ROMEO WHOSE TELEPHONE NUMBER IS (703) 305-4050. THE EXAMINER CAN NORMALLY BE REACHED ON MONDAY THROUGH FRIDAY FROM 6:45 A.M. TO 3:15 P.M.

IF ATTEMPTS TO REACH THE EXAMINER BY TELEPHONE ARE UNSUCCESSFUL, THE EXAMINER'S SUPERVISOR, GARY KUNZ, CAN BE REACHED ON (703) 308-4623.

OFFICIAL PAPERS FILED BY FAX SHOULD BE DIRECTED TO (703) 308-4242.

10 FAXED DRAFT OR INFORMAL COMMUNICATIONS SHOULD BE DIRECTED TO THE EXAMINER AT (703) 308-0294.

ANY INQUIRY OF A GENERAL NATURE OR RELATING TO THE STATUS OF THIS APPLICATION OR PROCEEDING SHOULD BE DIRECTED TO THE GROUP RECEPTIONIST WHOSE TELEPHONE NUMBER IS (703) 308-0196.

  
DAVID ROMEO  
PRIMARY EXAMINER  
ART UNIT 1647

15 APRIL 8, 2001